

JS 44 (Rev. 12/07)

**CIVIL COVER SHEET**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

**I. (a) PLAINTIFFS**

ABC CAPITAL INVESTMENTS LLC  
1218 N. Marshall Street

(b) County of Residence of First Listed Plaintiff Philadelphia  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

David T. Shulick, Esquire  
1500 JFK Blvd, Suite 1030

**DEFENDANTS**

City of Philadelphia  
One Parkway

County of Residence of First Listed Defendant Philadelphia  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

Armando Brigandi, Esquire  
1515 Arch Street, 14th Floor

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   |                            |                            |   |                            |                            |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
|   | PTF                        | DEF                        |   | PTF                        | DEF                        |
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury  <b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability  <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other  <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act  <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157  <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark  <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))  <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input checked="" type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <b>Habeas Corpus:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

**V. ORIGIN**

(Place an "X" in One Box Only)

- ☐ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

42 U.S.C. Section 1983

Brief description of cause:

Plaintiff alleges federal civil rights violation under 42 O.S.C. Section 1983

**VII. REQUESTED IN COMPLAINT:**

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

**DEMAND \$**

CHECK YES only if demanded in complaint:

**JURY DEMAND:** ☐ Yes ☐ No

**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

9/13/2016

FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_

## UNITED STATES DISTRICT COURT

**FOR THE EASTERN DISTRICT OF PENNSYLVANIA – DESIGNATION FORM** to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: ABC Capital Investments, LLC, 1218 N. Marshall Street, Philadelphia, PA 19122

Address of Defendant: City of Philadelphia Law Department, 1515 Arch Street, 14<sup>th</sup> Floor, Philadelphia, PA 19102

Place of Accident, Incident or Transaction: Philadelphia, PA  
(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?  
(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a)). Yes ☐ No ☒

Does this case involve multidistrict litigation possibilities? Yes ☐ No ☒  
RELATED CASE IF ANY:

Case Number: \_\_\_\_\_ Judge \_\_\_\_\_ Date Terminated: \_\_\_\_\_

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?  
Yes ☐ No ☒
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?  
Yes ☐ No ☒
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?  
Yes ☐ No ☒

CIVIL: (Place in ONE CATEGORY ONLY)

**A. Federal Question Cases:**

1. ☐ Indemnity Contract, Marine Contract, and All
2. ☐ FELA
3. ☐ Jones Act – Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☒ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☐ All Other Federal Questions Cases (Please specify)

**B. Diversity Jurisdiction Cases:**

- Other Contracts 1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
  3. ☐ Assault, Defamation
  4. ☐ Marine Personal Injury
  5. ☐ Motor Vehicle personal Injury
  6. ☐ Other Personal Injury (Please specify)
  7. ☐ Products Liability
  8. ☐ Products liability - Asbestos
  9. ☐ All other Diversity Cases  
(Please specify)

**ARBITRATION CERTIFICATION**

(Check appropriate Category)

I, Armando Brigandi, counsel of record do hereby certify:

- ☒ Pursuant to Local Rule 53.3 A, civil rights cases are excluded from arbitration.
- ☐ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;
- ☐ Relief other than monetary damages is sought.

DATE: 9/13/16

Armando Brigandi, Esquire  
Attorney-at-Law

92208  
Attorney I.D. #

**NOTE:** A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 9/13/16

Armando Brigandi, Esquire  
Attorney-at-Law

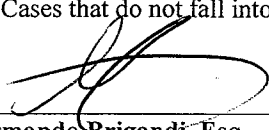
92208  
Attorney I.D. #



(f) Standard Management -- Cases that do not fall into any one of the other tracks.

( X )

9/13/16  
Date

  
Armando Brigandi, Esq.

Defendants  
Attorney for

(215) 683-5381

(215) 683-5397

armando.brigandi@phila.gov

Telephone  
(Civ. 660) 10/02

FAX Number

E-mail Address



14th Floor, Philadelphia, Pennsylvania.

3. Plaintiffs allege that on or about the winter of 2016 they sustained damages when their civil rights were violated by the defendants. (Exhibit A ).

4. This action may be removed to this Court pursuant to 28 U.S.C. § 1441 since Plaintiff's Complaint contains allegations of violations of the plaintiff's Federal Civil Rights and seeks relief under 42 U.S.C. § 1983. (Exhibit A)

**IN THE UNITED STATES DISTRICT COURT FOR  
THE EASTERN DISTRICT OF PENNSYLVANIA**

ABC CAPITAL INVESTMENTS, LLC.	:	COURT OF COMMON PLEAS
1218 North Marshall Street	:	PHILADELPHIA COUNTY
Philadelphia, PA 19122	:	COMMONWEALTH OF PENNSYLVANIA
and	:	
ALPHA CAPITAL INVESTMENTS, LLC.	:	
1218 North Marshall Street	:	
Philadelphia, PA 19122	:	
Plaintiffs	:	
CNA FINANCIAL CORPORATION	:	
PO Box 8317	:	
Chicago, IL 60680-8317	:	
and	:	No. _____
CONTINENTAL CASUALTY	:	
COMPANY	:	
Chicago, Illinois 60604	:	
and	:	
BENEFICIAL INSURANCE	:	
SERVICES, LLC.	:	
1818 North Market Street	:	
Philadelphia, PA 19103-3638	:	
and	:	
CITY OF PHILADELPHIA	:	Formerly,
1515 Arch St.	:	Court of Common Pleas
Law Department	:	Philadelphia County
Philadelphia, PA 19107	:	August Term 2016, No. 160802544
Defendants	:	

## **NOTICE OF FILING OF REMOVAL**

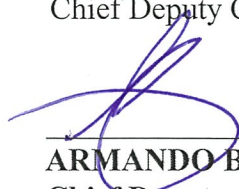
TO: David T. Shulick, Esquire  
1500 JFK Blvd, Suite 1030  
Philadelphia, PA 19102

PLEASE TAKE NOTICE THAT on September 14, 2016, defendant, CNA Financial Corporation, Continental Casualty Company, Beneficial Insurance Services, LLC and the City of Philadelphia filed, in the office of the Clerk of the United States District Court for the Eastern District of Pennsylvania a verified Notice of Removal.

**Wherefore**, petitioner, PO Christopher Hulmes and the City of Philadelphia, respectfully requests that the captioned Complaint be removed to the United States District Court for the Eastern District of Pennsylvania.

Respectfully submitted,

Armando Brigandi  
Chief Deputy City Solicitor



**ARMANDO BRIGANDI**  
**Chief Deputy City Solicitor**  
**Attorney I.D. No. 92208**  
1515 Arch Street, 14<sup>th</sup> Floor  
Philadelphia, PA 19102  
215-683-5381

Date: \_\_\_\_\_

9/13/16



A copy of this Notice of Removal is attached hereto and is also being filed with the Clerk of the Court of Common Pleas of Philadelphia County, pursuant to Title 28, United States Code, Section 1446(e).



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**ARMANDO BRIGANDI**

**Chief Deputy City Solicitor**

**Attorney I.D. No. 92208**

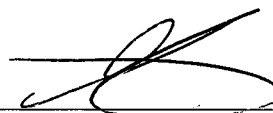
City of Philadelphia Law Department

1515 Arch Street, 14<sup>th</sup> Floor

Philadelphia, PA 19102

215-683-5381





**ARMANDO BRIGANDI**

**Chief Deputy City Solicitor**

**Attorney ID No. 92208**

City of Philadelphia Law Department

1515 Arch Street, 14<sup>th</sup> Floor

Philadelphia, PA 19102

215-683-5381

Date: \_\_\_\_\_

9/13/16

Exhibit “A”

Court of Common Pleas of Philadelphia County  
Trial Division

## Civil Cover Sheet

For Prothonotary Use Only (Docket Number)

AUGUST 2016

002544

E-Filed Number: 1608035615

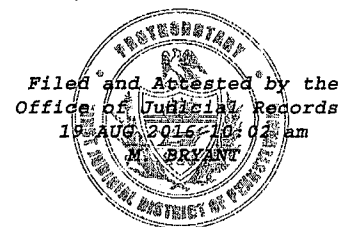
PLAINTIFF'S NAME ABC CAPITAL INVESTMENTS LLC.		DEFENDANT'S NAME CNA FINANCIAL CORPORATION	
PLAINTIFF'S ADDRESS 1218 N. MARSHALL STREET PHILADELPHIA PA 19122		DEFENDANT'S ADDRESS PO BOX 8317 CHICAGO IL 60680	
PLAINTIFF'S NAME ALPHA CAPITAL INVESTMENTS LLC.		DEFENDANT'S NAME CONTINENTAL CASUALTY COMPANY	
PLAINTIFF'S ADDRESS 1218 N. MARSHALL STREET PHILADELPHIA PA 19122		DEFENDANT'S ADDRESS 333 SOUTH WABASH CHICAGO IL 60604	
PLAINTIFF'S NAME		DEFENDANT'S NAME BENEFICAL INSURANCE SERVICES LLC.	
PLAINTIFF'S ADDRESS		DEFENDANT'S ADDRESS 1818 NORTH MARKET STREET PHILADELPHIA PA 19103	
TOTAL NUMBER OF PLAINTIFFS 2	TOTAL NUMBER OF DEFENDANTS 4	COMMENCEMENT OF ACTION <input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Petition Action <input type="checkbox"/> Notice of Appeal <input type="checkbox"/> Writ of Summons <input type="checkbox"/> Transfer From Other Jurisdictions	
AMOUNT IN CONTROVERSY <input type="checkbox"/> \$50,000.00 or less <input checked="" type="checkbox"/> More than \$50,000.00	COURT PROGRAMS <input type="checkbox"/> Arbitration <input type="checkbox"/> Mass Tort <input type="checkbox"/> Commerce <input type="checkbox"/> Settlement <input checked="" type="checkbox"/> Jury <input type="checkbox"/> Savings Action <input type="checkbox"/> Minor Court Appeal <input type="checkbox"/> Minors <input type="checkbox"/> Non-Jury <input type="checkbox"/> Petition <input type="checkbox"/> Statutory Appeals <input type="checkbox"/> W/D/Survival <input type="checkbox"/> Other:		
CASE TYPE AND CODE 1J - BAD FAITH			
STATUTORY BASIS FOR CAUSE OF ACTION			
RELATED PENDING CASES (LIST BY CASE CAPTION AND DOCKET NUMBER)		IS CASE SUBJECT TO COORDINATION ORDER? YES    NO	
		FILED PRO PROTHY AUG 19 2016 M. BRYANT	
TO THE PROTHONOTARY: Kindly enter my appearance on behalf of Plaintiff/Petitioner/Appellant: <u>ABC CAPITAL INVESTMENTS LLC.</u> <u>ALPHA CAPITAL INVESTMENTS LLC.</u> Papers may be served at the address set forth below.			
NAME OF PLAINTIFF'S/PETITIONER'S/APPELLANT'S ATTORNEY DAVID T. SHULICK		ADDRESS 1500 JFK BLVD SUITE 1030 PHILADELPHIA PA 19102	
PHONE NUMBER (215) 988-5488	FAX NUMBER (215) 988-5478		
SUPREME COURT IDENTIFICATION NO. 74333		E-MAIL ADDRESS david@shulicklaw.com	
SIGNATURE OF FILING ATTORNEY OR PARTY DAVID SHULICK		DATE SUBMITTED Friday, August 19, 2016, 10:02 am	

FINAL COPY (Approved by the Prothonotary Clerk)

**COMPLETE LIST OF DEFENDANTS:**

1. CNA FINANCIAL CORPORATION  
PO BOX 8317  
CHICAGO IL 60680
2. CONTINENTAL CASUALTY COMPANY  
333 SOUTH WABASH  
CHICAGO IL 60604
3. BENEFICAL INSURANCE SERVICES LLC.  
1818 NORTH MARKET STREET  
PHILADELPHIA PA 19103
4. CITY OF PHILADELPHIA *OK*  
1515 ARCH STREET  
PHILADELPHIA PA 19107

SHULICK LAW  
 BY: David T. Shulick, Esquire  
*Attorney for Plaintiff*  
 Attorney I.D. No. 74333  
 1500 J.F.K. Boulevard, Suite 1110  
 Philadelphia, PA 19102  
 (215) 988-5488



ABC CAPITAL INVESTMENTS, LLC.  
 1218 North Marshall Street  
 Philadelphia, PA 19122  
 and  
 ALPHA CAPITAL INVESTMENTS, LLC.  
 1218 North Marshall Street  
 Philadelphia, PA 19122  
 Plaintiffs

PHILADELPHIA COUNTY  
 COURT OF COMMON PLEAS  
 CIVIL TRIAL DIVISION  
 August Term, 2016  
 No.:

v.  
 CNA FINANCIAL CORPORATION  
 PO Box 8317  
 Chicago, IL 60680-8317  
 and  
 CONTINENTAL CASUALTY  
 COMPANY  
 333 South Wabash  
 Chicago, Illinois 60604  
 and  
 BENEFICIAL INSURANCE  
 SERVICES, LLC.  
 1818 North Market Street  
 Philadelphia, PA 19103-3638  
 and  
 CITY OF PHILADELPHIA  
 1515 Arch Street  
 Law Department  
 Philadelphia, PA 19107  
 Defendants

**COMPLAINT – CIVIL ACTION**

NOTICE TO DEFEND

AVISO

You have been sued in Court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and Notice are served, by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed in the Complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

Lo(s) han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las páginas siguientes, usted tiene veinte (20) días de plazo al partir de la fecha de la demanda y la notificación. Hace falta asentar una comparecencia escrita o en persona o con un abogado y entregar a la corte en forma escrita sus defensas o sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomará medidas y puede continuar la demanda en contra suya sin previo aviso o notificación. Además, la corte puede decidir a favor del demandante y requiere que usted cumpla con todas las provisiones de esta demanda. Usted puede perder dinero o sus propiedades u otros derechos importantes para usted.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

LLEVE ESTA DEMANDA A UN ABOGADO INMEDIATAMENTE SI NO TIENE ABOGADO O SI NO TIENE EL DINERO SUFICIENTEMENTE DE PAGAR TAL SERVICIO, VAYA EN PERSONA O LLAME POR TELÉFONO A LA OFICINA CUYA DIRECCIÓN SE ENCUENTRA ESCRITA ABAJO PARA AVERIGUAR DONDE SE PUEDE CONSEGUIR ASISTENCIA LEGAL.

Philadelphia Bar Association  
 Lawyer Referral and Information Service  
 1101 Market Street, 11th Floor  
 Philadelphia, Pennsylvania 19107-2911  
 Telephone: (215) 238-6333

Asociación de Licenciados de Filadelfia  
 Servicio de Referencia e Información Legal  
 1101 Market Street, 11th Floor  
 Philadelphia, Pennsylvania 19107-2911  
 Teléfono: (215) 238-6333

SHULICK LAW  
 BY: David T. Shulick, Esquire  
*Attorney for Plaintiff*  
 Attorney I.D. No. 74333  
 1500 J.F.K. Boulevard, Suite 1110  
 Philadelphia, PA 19102  
 (215) 988-5488

ABC CAPITAL INVESTMENTS, LLC.	:	PHILADELPHIA COUNTY
1218 North Marshall Street	:	COURT OF COMMON PLEAS
Philadelphia, PA 19122	:	CIVIL TRIAL DIVISION
and	:	August Term, 2016
ALPHA CAPITAL INVESTMENTS, LLC.	:	No.:
1218 North Marshall Street	:	
Philadelphia, PA 19122	:	
Plaintiffs	:	
v.	:	
CNA FINANCIAL CORPORATION	:	
PO Box 8317	:	
Chicago, IL 60680-8317	:	
and	:	
CONTINENTAL CASUALTY	:	
COMPANY	:	
333 South Wabash	:	
Chicago, Illinois 60604	:	
and	:	
BENEFICIAL INSURANCE	:	
SERVICES, LLC.	:	
1818 North Market Street	:	
Philadelphia, PA 19103-3638	:	
and	:	
CITY OF PHILADELPHIA	:	
1515 Arch Street	:	
Law Department	:	
Philadelphia, PA 19107	:	
Defendants	:	

**COMPLAINT – CIVIL ACTION**

Plaintiffs, ABC Capital Investments, LLC (“ABC”) and Alpha Capital Investments, LLC (“Alpha”), by and through their undersigned counsel, herein files a Complaint against Defendants CNA Financial Corporation (“CNA”), Continental Casualty Company (“CCC”), Beneficial Insurance Services, LLC (“Beneficial”) and the City of Philadelphia (“the City”), and in support thereof, avers as follows:



**PARTIES**

1. Plaintiff ABC is a LLC. duly organized in accordance with the laws of the Commonwealth of Pennsylvania, with an address located at 1218 North Marshall Street, Philadelphia, PA 19122.
2. Plaintiff Alpha is a LLC. duly organized in accordance with the laws of the Commonwealth of Pennsylvania, with an address located at 1218 North Marshall Street, Philadelphia, PA 19122.
3. Defendant CNA is a corporation that, upon information and belief, is licensed to sell and hold insurance policies with businesses without limitation with an address of PO Box 8317, Chicago, IL 60680-8317.
4. Defendant CCC is a corporation that, upon information and belief, is licensed to sell and hold insurance policies with businesses without limitation with an address of 333 South Wabash Ave, Chicago Illinois 60604.
5. For the purposes of this matter, CNA has acted as the umbrella company, controlling and assessing the insurance claims made by ABC while CCC was responsible for providing coverage pursuant to the policy held by ABC. Said insurance policy is attached hereto as Exhibit "A" and incorporated hereafter by reference and if fully set forth at length. For the purposes of this matter Defendant CNA and CCC have acted as one and the same.
6. Defendant Beneficial is a corporation and licensed insurance agency with an address of 1818 Market St. Philadelphia, PA 19103-3638.
7. Defendant City of Philadelphia has an address of 1515 Arch St. Philadelphia, PA 19107.

### JURISDICTION

8. Jurisdiction and venue are properly vested with the Philadelphia Court of Common Pleas in that all or the majority of the claims of Plaintiffs' relate to a Philadelphia County property, and as alleged, all Defendants subject to suit in Philadelphia County routinely and regularly conduct or conducted business in Philadelphia County, and are subject to suit in said County pursuant to the Rules of Civil Procedure and related case law.

### FACTS

9. This matter involves the property located at 714 N. 36<sup>th</sup> Street, Philadelphia, PA 19104 ("the Property").
10. The Property was purchased by Plaintiff Alpha on December 1, 2015. Plaintiff ABC was contracted by Alpha to act as property manager. ABC was in charge of maintenance and renovation for the Property including the hiring of any contractors or subcontractors and the oversight of any work done on the Property.
11. ABC hired multiple contractors to perform work on the Property during the fall and winter of 2015-2016. Throughout the renovation process, ABC repeatedly failed to adhere to their agreement with Alpha by failing to ensure that the proper construction permits and Builder's Risk Insurance had been obtained by the hired contractors. As a result of the negligence of ABC the work done on the Property was not done by the proper means or through the appropriate channels.
12. An inspection by the City revealed that a retaining wall on the Property was in jeopardy of collapsing and as a result contractors were hired by ABC to reinforce

the retaining wall and neither ABC nor Alpha were ever so notified, and all such allegations were disputed by the contractor.

13. During the winter of 2016 the City, despite prior contrary information provided, suddenly and without warning made a unilateral determination that one wall of the structure, braced by the contractor per the City L&I Inspector's instructions, was not sufficient and Defendant City then stated that the entire wall must be torn down.
14. Plaintiffs took immediate action, communicated with Defendant City, urgently had the Property inspected by a professional engineer who ensured, through sworn affidavit, that the structure was not in danger of collapse. However, without due process, and in total disregard for Plaintiffs' rights and the sworn Affidavit of the P.E., the City held an emergency hearing, deprived Plaintiffs' of their civil rights, ignored the Affidavit and P.E. Certification in direct conflict with the City, ignored the City's prior instructions that the bracing would be fine, and tore down the building and billed Plaintiff fifty three-thousand dollars (\$53,000) for the cost of the demolition. The engineers sworn affidavit, as is the City's outrageous demolition bill, both attached hereto as Exhibit "B"
15. The City prematurely demolished the building while on notice that there were still factual issues in dispute and after being made fully aware of the engineer's affidavit stating that the Property need not be demolished and with the proper service of process given to Plaintiffs, and there was no risk of imminent harm, and as will be proven through discovery.
16. Defendant Beneficial was hired by Plaintiff ABC, and Alpha, to serve as their skilled insurance agent, and was responsible for ensuring that the Property was

fully insured from all perils and risks of all kinds. ABC and Beneficial previously had a longstanding business relationship through which ABC has paid Beneficial a substantial sum as their insurance agent and relied upon Beneficial as the sole and complete source for procuring complete and adequate insurance and to provide expertise, and to properly notify of any gaps in any insurance coverage. Beneficial never so advised as to any such gaps in coverage.

17. Beneficial directed ABC and Alpha to contract with Defendants CNA and CCC to procure insurance for the Property to cover all risks, to cover any third party building issue or liability, and received a commission. CNA acted as the umbrella company while CCC was responsible for providing coverage, for which ABC and Alpha paid both CAN and Beneficial substantial sums.
18. Plaintiff's insurance policy manifested by Beneficial, Exhibit "A," with Defendants CNA and CCC was enacted on 7/10/15. The policy was effective until 7/10/16 and was in full effect at the time of the destruction of the Property.
19. Plaintiff's insurance policy held with Defendants CNA and CCC clearly covered property damage, and negligence on the part of ABC such as the negligence through which ABC failed to ensure that the work done on the Property was done adequately and with the proper permits. Furthermore, the insurance policy clearly covers property damage done by parties outside of the insured or hired contractors such as the property damage done by the City of Philadelphia. By way of further answer, it was not a hired contractor who destroyed Plaintiffs' property, but in fact, the Defendant City of Philadelphia, and there should be coverage for all related damages.

20. Plaintiff Alpha filed a claim against Plaintiff ABC with Defendants CNA and CCC as a result of the destruction of the Property to cover the losses sustained as a result of said destruction.
21. CNA, who has since handled the claim, has refused to cover and recoup Plaintiffs pursuant to their insurance policy and has ignored the proveable facts and policy language and issued a Reservation of Rights letter that Plaintiffs' have rightfully demanded be rescinded as it is in Bad Faith, and in violation of 42 Pa. C.S.A. 8371 - and all such Bad Faith notices have been ignored by Defendant CAN and CCC, through which they continue to stall, thwart, and deny Plaintiffs' claim, said letter is attached hereto as Exhibit "D" and incorporated herein by reference as if set forth at length.
22. The claim was denied and/or the reservation of rights was issued, by Defendant CNA and CCC citing the Property Management Agreement between Alpha and ABC and the clause in the insurance contract exempting coverage for specific types of property damage.
23. The Reservation of Rights letter failed to address the damage done by the City of Philadelphia and the procedures, or lack there of, through which that demolition was commenced.
24. Up to the present date, CNA and CCC have failed to properly comply with the insurance policy held by ABC and have refused to accept Alpha's claim.

**COUNT I**  
**BREACH OF CONTRACT**  
**(Plaintiffs v. Defendants CNA and CCC)**

25. Plaintiffs incorporates by reference the allegations contained in paragraphs 1 through 24 above as if a more fully set forth herein.

26. Defendants CNA and CCC represented to Plaintiffs, Inc. that they had, and consistently had, liability policies of insurance for the Property. Said policies clearly covered property damage as a result of the actions of outside parties and through the negligence of ABC such as the property damage that occurred to the Property during the winter of 2016.
27. Despite said representations by Defendants CNA and CCC, when Plaintiff Alpha tendered their claim to Defendants, they failed and refused to provide any adequate explanation, ignored all of Plaintiff ABC and its counsel's inquiries, and left Plaintiffs to bear the cost of counsel to enter their appearance and pursue this litigation.
28. As a result, Plaintiffs have no insurance coverage for the destruction of the Property, nor has any insurance carrier provided the Plaintiffs with an adequate and complete explanation or reimbursed the Plaintiffs for the costs incurred related to this claim.
29. Plaintiffs have been damaged in an amount in excess of \$280,000.

## COUNT II

### UNJUST ENRICHMENT

(Plaintiffs v. Defendants CNA and CCC)

30. The foregoing allegations are incorporated herein by reference as if set forth in full.
31. Defendants CNA and CCC have, and continue to be, unjustly enriched as a result of the conduct described above in this Complaint.
32. CNA and CCC received benefits in the form payments made in relation to the insurance policy for which they have failed to adhere to and for which they have refused to provide coverage under contrary to the language of the policy.

33. Retention of these benefits by Defendants' would be unjust and inequitable. Defendants abused their discretion by disregarding numerous attempts made by Plaintiffs to ensure that the insurance policy be adhered to and they have engaged in protracted delays that have led to the deterioration in the value of the Property and the inability of Plaintiffs to recoup any loses and proceed with the rebuild of the Property.
34. It would be unjust and inequitable for CNA and CCC to retain such benefits, and Plaintiffs are entitled to restitution of all monies and fees and charges owed, unjustly and inequitably retained, and damages for the improperly alleged lack of coverage regarding the Property and related insurance policy.

**COUNT III**

**BAD FAITH**

**(Plaintiffs v. Defendants CNA and CCC)**

35. Plaintiff incorporates paragraphs 1 through 32 as though fully set forth at length herein.
- a. 42 Pa. C.S.A. 8371 entitled "Actions on Insurance Policies" provides a private cause of action for bad faith against insurance companies if the Court finds that the insurer has acted in bad faith towards the insured and permits the following damages to be awarded:
- (1) Interest on the amount of the claim from the date a claim was made by the insured in an amount equal to the prime rate of interest plus three (3%) percent.
  - (2) Punitive damages against the insurer.
  - (3) Court costs and attorney's fees against the insurer.
- b. Plaintiff ABC made all payments for insurance policies to Defendants CNA and CCC in full and in a timely fashion through their insurance agent,

Beneficial, who secured the insurance for Plaintiff ABC to cover the Property.

c. Despite the above, CNA and CCC acted in bad faith towards its insured and Plaintiff Alpha, as set forth above and by falsely claiming that the property damage at issue was not covered by their policy and that as a result, the claim for damage was not covered under the policy.

d. The blanket denial, illogical and incorrect interpretation of the policy, and the refusal to pay the claim, after Bad Faith notice, constituted a violation of 42 Pa.C.S.A. 8371, and constitutes Bad Faith on the part of Defendants CNA and CCC.

e. As a direct and proximate result, Plaintiffs, have incurred damages in excess of \$280,000.00, plus attorney's fees, costs of suit, and otherwise has been left in a damaged condition and state of disrepair.

WHEREFORE, Plaintiffs respectfully request judgment against Defendants CNA and CCC, joint and severally, for Counts I through III, including bad faith conduct pursuant to 42 Pa. C.S.A. 8371, unjust enrichment and breach of contract in an amount in excess of \$280,000.00, plus punitive damages, attorney's fees and court costs, and such other and further relief as this Court deems just and proper.

#### **COUNT IV**

#### **BREACH OF CONTRACT**

**(Plaintiffs v. Defendant Beneficial Insurance Services, LLC.)**

36. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 35 above as though fully set forth at length herein.



37. Defendant Agent Beneficial represented to ABC that they had, and consistently had, full insurance coverage for anything that would happen to any Client property, including full coverage of the Property and any potential damages that may arise through the renovation process..
38. Despite said representations by Defendant, when Alpha tendered the Property claim to Defendants CNA and CCC, they failed and refused to provide any coverage, ignored all of ABC and its counsel's inquires, and left Plaintiffs to bear all costs related to this matter..
39. As a result, Plaintiffs may have, if Defendants CAN and CCC are correct legally and factually, no insurance coverage for the Property, an issue that falls in direct violation of the contract between ABC and Defendant Beneficial. Despite consistent payments made to Defendant Beneficial for their services, despite a duty on the part of Beneficial to procure complete and full coverage for the Property and despite the assurances made by Beneficial that such coverage would be procured, Plaintiffs find themselves in a position without coverage and they have yet to be appropriately compensated for damage done to the Property.
40. Plaintiffs have been damaged in an amount in excess of \$280,000.

#### **COUNT V**

##### **BREACH OF FIDUCIARY DUTY**

**(Plaintiffs v. Defendant Beneficial Insurance Services, LLC.)**

41. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 40 above as though fully set forth at length herein.
42. At all relevant times, Defendant Beneficial was contracted by ABC to find complete and full insurance coverage for the Property and therefore had an

obligation to perform their duties and responsibilities in good faith and with honesty.

43. Defendant Beneficial breached those duties by:

a. Providing ABC with coverage that was inadequate, which allowed Defendants CNA and CCC to attempt to find a loophole through which they could deny coverage for damage done to the Property

b. Accepting full payment from ABC for services rendered for which they failed to adequately and appropriately render.

c. Falsely representing to Plaintiff ABC that they had complete coverage for the Property and that the insurance policy they procured was without undue discrepancies or major gaps in coverage.

d. Not advising Plaintiffs' that there was a potential or actual gap in insurance coverage, and/or failing to properly secure such coverage as represented, instructed and contracted to so procure.

44. As a result of Defendant Beneficial's breach of fiduciary duty, Plaintiffs suffered losses in excess of \$280,000.

#### **COUNT VI**

#### **NEGLIGENCE**

**(Plaintiffs v. Defendant Beneficial Insurance Services, LLC.)**

45. Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 44 above as if more fully set forth herein.

46. Defendant Agent, jointly and severally, had a duty to deal fairly with Plaintiff ABC to be certain that at all times the insurance covering Plaintiff's operations, assets, employees and other property of Plaintiff would be in full force and effect

for any and all claims from any and all patrons or business invitees, or other third parties.

47. Despite said duty by Defendant Agent, they breached their duty by failing to timely procure appropriate insurance coverage for Plaintiff ABC, and/or causing a potential loophole or gap in insurance coverage to exist regarding potential property damage regarding the Property.

48. As a result Plaintiffs have been damaged in an amount in excess of \$280,000.

**WHEREFORE**, Plaintiffs respectfully requests that this Honorable Court enter judgment in its favor and against the Defendant Beneficial, in Counts IV, V and VI, jointly and severally, in an amount in excess of Two Hundred and Eighty Thousand (\$280,000) Dollars, together with an award of interest on the amount of the claim from the date the claim was made in the amount of the prime rate plus Three (3%) Percent, punitive damages attorney's fees and costs and such other relief that this Court deems just and equitable.

#### **COUNT VII**

#### **CIVIL RIGHTS VIOLATION – DUE PROCESS**

**(Plaintiffs v. City of Philadelphia)**

49. Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 48 above as if more fully set forth herein.

50. This claim is brought pursuant to 42. U.S.C 1983 rights and privileges secured by the Constitution of the United States.

51. Plaintiffs' right to due process, and other constitutional rights, were violated by the City of Philadelphia when the Property was demolished without first adhering to the proper procedural steps required for said action, including but not limited to the City giving inconsistent instructions regarding the bracing,

ignoring the prior instructions provided, and as otherwise will be proven through discovery.

52. Following the inspection, through which a city inspector suddenly, despite prior communications to the contrary, determined the bracing was inadequate and the wall of the newly renovated Property was in danger of collapse. However, Plaintiffs had the Property immediately inspected by a professional engineer who determined that the Property was not in danger of collapse, and Plaintiffs' offered to expedite anything the City wanted them to do regarding the bracing. The City was made aware of these findings, offers and communications, yet they were completely disregarded. *See* Exhibit "C."
53. Before Plaintiffs were given any opportunity to make repairs or to have the matter handled through appropriate channels, the City demolished the building and billed Plaintiffs for the cost in direct violation of Plaintiffs' due process rights, as will be proven through discovery.
54. The City engaged in the demolition without the proper service of process, notice, hearing, and by ignoring the record and evidence, and they did so while on notice that there were factual issues in dispute that they disregarded when determining to go ahead with the demolition.
55. The City acted without a proper hearing by not permitting all parties to be properly served, heard, and by not taking the least intrusive action, by not having a proper second inspection, by ignoring the facts provided by one Janie Frost, on behalf of Plaintiffs, and without allowing Plaintiffs the opportunity to repair the allegedly defective bracing, or otherwise, and without keeping Plaintiffs appropriately informed and involved in each stage of the process and without

due consideration to the right of Plaintiffs regarding their property and their rights to due process.

56. As a result of Defendant City of Philadelphia's actions, Plaintiffs have been given the bill for the demolition of the Property totaling fifty three-thousand, two hundred and forty (\$53,240) dollars, and incurred substantial damages that will be proven at trial.

**WHEREFORE**, Plaintiffs respectfully requests that this Honorable Court enter judgment in its favor and against the Defendant City of Philadelphia, jointly and severally, pursuant to Count VII, in an amount covering the cost of the demolition of the Property and such other relief that this Court deems just and equitable, plus attorneys fees and all other available damages.

**SHULICK LAW**

*/s/ David T. Shulick*

BY: \_\_\_\_\_

David T. Shulick, Esquire  
Attorney for Plaintiffs

**VERIFICATION**

We, the undersigned Plaintiffs, state that the statements made in the foregoing discovery answers and/or pleadings are true and correct to the best of my knowledge, information and belief; and that the foregoing statements are made subject to the penalties of 18 Pa. C.S.A. § 4909, relating to unsworn falsification to authorities. A copy of our signature shall be legally binding.

ABC CAPITAL INVESTMENTS AND ALPHA CAPITAL INVESTMENTS:

By: 

\_\_\_\_\_  
Managing Member and Attorney in Fact